

Message Text

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PAGE 01 EC BRU 07296 232014Z

22

ACTION EUR-12

INFO OCT-01 EA-07 ISO-00 AID-05 CEA-01 CIAE-00 COME-00

EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02 STR-04

TRSE-00 LAB-04 SIL-01 SAM-01 OMB-01 XMB-02 L-03 /062 W

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R 231806Z JUL 76

FM US MISSION EC BRUSSELS

TO SECSTATE WASHDC 1642

INFO AMEMBASSY TOKYO

ALL EC CAPITALS 2378

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PASS EXIMBANK AND TREASURY

E.O. 11652: N/A

TAGS: EFIN, EEC

SUBJECT: EC COMMISSION ACTION AGAINST EXPORT CREDIT
CONSENSUS

1. EUROPEAN COMMISSION ANNOUNCED DECISION JULY 22 TO OPEN
PROCEDURE UNDER ARTICLE 169 OF EEC TREATY AGAINST MEMBER
STATES (FRANCE, GERMANY, UK, ITALY) PARTICIPATING IN EXPORT
CREDIT CONSENSUS WITH U.S. AND JAPAN. COMMISSION OFFICIAL
(HAY IN SOAMES CABINET) DESCRIBED TO EMBOFFS DECISION TAKEN
BY COMMISSION, WHICH, IF SETTLEMENT IS NOT REACHED WITH
EMEBER STATES, WOULD LEAD TO PROCEEDINGS AGAINST MEMBER
STATES BEFORE EUROPEAN COURT OF JUSTICE.

2. COMMISSION OFFICIAL DESCRIBED (WITH OBVIOUS SATISFACTION)
ACTION AS MADE ABSOLUTELY NECESSARY BY CLEAR INFRINGEMENT
OF COMMUNITY COMPETENCE IN THIS AREA. ACCORDING TO OFFICIAL,
THERE WAS NO DISSENSIION IN COMMISSION MEETING. COMMISSION
WELCOMES BASIS THAT HAS BEEN REACHED FOR AGREEMENT IN EXPORT
CREDIT FIELD BUT INSISTS THAT AGREEMENT MUST BE BROUGHT
UNDER COMMUNITY AUTHORITY VIA COUNCIL DECISION. WHILE
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PAGE 02 EC BRU 07296 232014Z

RECOGNIZING THAT PRESENT ACTION POSES SOME RISK TO

PROGRESS ALREADY MADE, COMMISSION HOPES TO FORCE MEMBERS (PARTICULARLY FRANCE) TO ACQUIESCE IN LEGALLY BINDING COUNCIL DECISION.

3. ACCORDING TO SOURCE, ACTION WAS TAKEN AT PRESENT TIME IN ORDER TO TAKE ADVANTAGE OF PRESENT COMMISSION'S STRONG DISPOSITION IN FAVOR OF THIS ACTION, ALLOWING IT TO MAKE FINAL DECISION TO INITIATE COURT PROCEEDINGS, IF NECESSARY, BEFORE END OF ITS TERM IN DECEMBER. TIMETABLE OF PROCEDURES WAS SKETCHED OUT AS FOLLOWS; COMMISSION WILL SHORTLY SEND OUT LETTERS NOTIFYING AFFECTED MEMBERS OF COMMISSION OPINION THAT TREATY HAS BEEN INFRINGED, AND ASKING FOR COMMENTS. ON BASIS OF THESE COMMENTS COMMISSION WOULD DECIDE WHETHER TO PROCEED FURTHER. NEXT STEP WOULD BE PREPARATION OF LEGAL GRIEFS WHICH WOULD AGAIN BE SUBMITTED TO MEMBERS FOR COMMENTS. ASSUMING NO SATISFACTORY RESOLUTION OF MATTER (AND NO UNEXPECTED DELAYS) COMMISSION COULD MAKE FINAL DECISION IN DECEMBER TO BEGIN COURT ACTION. COURT DECISION COULD BE ISSUED PERHAPS WITHIN SIX MONTHS. OFFICIAL REGARDS COMMISSION'S LEGAL CASE AS IRON-CLAD, AND HAS NO DOUBT OF ULTIMATE FAVORABLE COURT DECISION, BUT NATURALLY HOPES THAT MEMBER COUNTRIES WILL AGREE TO BRING THESE MATTERS UNDER COMMUNITY JURISDICTION BEFORE THIS TIME. THE COMMISSION HOPES, BY HAVING A COURT CASE IN TRAIN, TO BE ABLE TO EXERCISE MAXIMUM PRESSURE ON MEMBER STATES TO TAKE FULL ACCOUNT OF EC COMPETENCE DURING SPRING 1977 NEGOTIATIONS PREPARATORY TO A NEW AGREEMENT IN JULY. HINTON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LITIGATION, MEMBERSHIP, EXPORTS, CREDIT, REGIONAL ORGANIZATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976ECBRU07296
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760285-0592
From: EC BRUSSELS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760729/aaaaazdf.tel
Line Count: 88
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 01 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 APR 2004 by greeneet>; APPROVED <02 APR 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EC COMMISSION ACTION AGAINST EXPORT CREDIT CONSENSUS
TAGS: EFIN, XT, JA, US, EEC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006